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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,850	03/26/2004	Jose Merino Lopez	033818-103	8135

21839 7590 09/28/2005

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EXAMINER

MAKI, STEVEN D

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 09/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/809,850	Applicant(s) LOPEZ, JOSE MERINO	
	Examiner Steven D. Maki	Art Unit 1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>032604</u> . | 6) <input type="checkbox"/> Other: ____. |

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- 1) The disclosure is objected to because of the following informalities: In the abstract, "thread" should be --tread--.

Appropriate correction is required.

- 2) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 3) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Europe 709

- 4) **Claims 1-3, 5-7 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Europe 709 (EP 1125709).**

See figure 17. The claimed at least one incision reads on the right or left sipe 124 and the claimed at least two lateral holes read on the remaining sipes 124.

Japan 817

- 5) **Claims 1, 3, 4-7 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Japan 817 (JP 9-164817).**

See figures 2 and 4. The claimed at least one incision reads on the sipe 2, one sub-sipe 3 or a pair of sub-sipes and the at least two lateral holes read on the remaining sub-sipes 3.

Japan 316

6) **Claims 1-10 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan 316 (JP 7-81316) in view of Yamaguchi et al (US 5176765) and Fujino et al (US 6427738) and optionally Europe 709.**

Japan 316 discloses a pneumatic tire having a porous tread comprising circumferential grooves and elements in relief (figure 1) wherein the porous tread has many through holes 21 arranged in the circumferential or axial direction. The tire has improved running and braking performances on icy and snowy roads. Japan 316 does not specifically recite using incisions in the tread.

As to claims 1-10 and 12-14, it would have been obvious to one of ordinary skill in the art to provide Japan 316's tread with through holes arranged in the axial direction and sipes (incisions) arranged in the axial direction such that the through holes open on both lateral faces of elements in relief and at least two holes are on the same side of the least one sipe in view of (1) Japan 316's teaching to provide elements in relief of a **porous tread** of a tire having improved running and braking performances on icy and snowy road with many through holes 21 arranged in the axial direction, (2) the suggestion from at least one of Yamaguchi et al and Fujino et al to provide axially arranged sipes in elements in relief (blocks) of a **foam tread** of a tire for use on icy roads in order enhance traction / braking performance and optionally (3) Europe 709's disclosure of how to form axially extending through holes arranged in elements in relief. At col. 10 lines 16-26, Yamaguchi et al teaches that the sipes can have various forms such as straight, zigzag, both end opening, etc. At col. 15 lines 7-9, Fujino et al teaches

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that sipes 11 extend across the width direction of the tire for the purpose of enhancing on ice braking performance and traction properties. As to claims 8-10, the claimed holes would have been obvious in view of Japan 316's teaching to form the holes as round holes having an average diameter of 0.2 to 5 mm and to provide the holes such that the sum of opening areas of the entire through holes 21 amounts to 10-70% of the cross sectional area of the tread. As to claim 14, Japan 316 shows the holes being arranged in a "zigzag" fashion. See figures 1 and 3.

7) Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japan 316 in view of Yamaguchi et al and Fujino et al and optionally Europe 709 as applied above and further in view of Lagnier.

As to claim 11, it would have been obvious to one of ordinary skill in the art to provide the sipes as self-locking types in view of Lagnier's suggestion to provides sipes with projections and recesses in the depth direction of the tread to improve adherence to icy pavement and have substantial effect on the phenomena of irregular wear.

Remarks

8) The remaining references are of interest.

9) No claim is allowed.

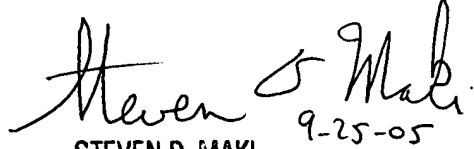
10) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 8:30 AM - 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dunn can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki
September 25, 2005


STEVEN D. MAKI
PRIMARY EXAMINER
~~GROUP 1300~~
Av 1733
9-25-05